IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRIMINAL MISC.NO.52844 M of 2005

DATE OF DECISION: NOVEMBER 20,2006

Ratnesh Dabra and others

.....Petitioners

VERSUS

State of Punjab and another

....Respondents

CORAM:- HON'BLE MR.JUSTICE RANJIT SINGH

PRESENT: Mr. Berjeshwar S. Jaswal, Advocate,
for the petitioners.

Mr. B. S. Sewal, Deputy Advocate General, Punjab,
for respondent No.1.

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RANJIT SINGH, J.

Quashing of FIR No.319 dated 5.8.2003 registered under Sections 498-A and 120-B IPC, has been sought by the petitioners in the present petition.

Petitioner No.1 married Punam Dabra (respondent NO.2) on 8.12.2001. One male child was born out of this wed-lock on 13.12.2002. Thereafter, the marriage between petitioner No.1 and respondent No.2 appears to have got into trouble, leading to civil and criminal proceedings. Accordingly, the impugned FIR was got registered at the instance of respondent No.2. During the pendency of the proceedings, a petition under Section 13 of the Hindu Marriage Act (hereinafter referred to as “the Act”), seeking divorce, was filed by petitioner No.1 on the ground of mental cruelty and desertion. However, in January 2004, this petition was dismissed as pre-mature with a direction that

the same may be filed afresh after the period of separation/desertion is completed. On completion of period of one year, petition under Section 13-B of the Act was again filed, wherein the statements of the parties were recorded on 11.4.2005. A perusal of the statement reproduced in Para 4 of the petition would show that respondent No.2 has stated that it was not possible for the partners to live together in this case. The male child was in the custody of respondent No.2, who was to remain with her as per the agreement. A sum of Rs.two lacs was deposited in the name of son, Karan, in the shape of F.D.R. Another sum of Rs.two lacs was paid to respondent No.2. In addition to this, a sum of Rs.three lacs had already been deposited in the F.D.R. in the name of respondent No.2 as her maintenance. She agreed not to seek return of any dowry articles/Istri Dhan after receipt of abovesaid sum of Rs.five lacs, which was as a full and final settlement. On the basis of this statement made by respondent No.2, which was accepted by petitioner No.1, the prayer of the parties for grant of divorce on mutual consent was allowed on 21.4.2005. It was also agreed between the parties that all the proceedings pending would be withdrawn or that respondent No.2 would not pursue any such proceedings. Since the proceedings pursuant to the impugned FIR were not withdrawn, the present petition was filed, seeking quashing of the same in the background as afore-mentioned.

Despite notice issued to respondent No.2, she did not put in appearance before this Court. The Court accordingly passed the following order on 14.11.2005:-

"Adjourned to 12.1.2006. Meanwhile, the I.O., who is

present in Court is directed to visit the house of the complainant (respondent No.2) and to record her statement as to whether or not she wants to pursue the criminal case got registered by her. The I.O., is further directed to file his personal affidavit on the basis of statement of respondent No.2, which he is directed to record."

Today an Affidavit of ASI Jagir Singh, Investigating Officer, Police Station Phase I, Mohali, alongwith documents, Annexures P-1 and P-2, has been handed over in Court and the same has been taken on record. A perusal of this affidavit shows that pursuant to the direction issued by this Court, the Investigating Officer had gone and recorded the statement of Punam Malik, respondent No.2. She has clearly stated that she does not wish to pursue the complaint made against Ratnesh Dabra, Smt.Kamlesh Dabra and Bimal Kumar (petitioners). She has also disclosed that she had given an application in this regard to SHO, Police Station, Phase I, Mohali, on 20.4.2005. Copy of the said application given by respondent No.2 has also been placed on record as Annexure R-1 alongwith the affidavit filed by the Investigating Officer. In this application, respondent No.2 has clearly averred that the compromise has been arrived at between her and petitioner No.1 due to intervention of the elders and relatives, whereupon a petition, seeking divorce on the ground of mutual consent was filed. Disclosing that she had undertaken to withdraw the present complaint, pursuant to which the FIR was registered, respondent No.2 has stated that she did not wish to pursue the said complaint.

From the facts as narrated above, it is clear that the parties have settled their disputes and differences and are now living separate. The petitioners have stood by all the terms and conditions agreed to in the compromise. Even respondent No.2 has adhered to her commitment as can be seen from the application given by her that she did not wish to pursue the proceedings consequent to the FIR, a copy of which is now on record. Her statement made before Investigating Officer has also been annexed as Annexure R-2 with the affidavit of the Investigating Officer. It is thus clear that she does not wish to pursue the proceedings in progress against the petitioners arising out of the impugned FIR. Under these circumstances, it would be futile to allow the present proceedings to continue. Otherwise also in view of the Full Bench decision of this Court reported as Dharambir Vs. State of Haryana, 2005 (3) RCR (Criminal) 426 and the law laid down by the Hon'ble Supreme Court in the case of B.S.Joshi Vs. State of Haryana, (2003) 4 SCC 675, the criminal proceedings arising out of matrimonial dispute can be ordered to be quashed on the basis of compromise. No useful purpose will be served in allowing these proceedings to continue. It would be a sheer waste of time.

This petition as such is allowed and FIR No.319 dated 5.8.2003 registered under Sections 498-A and 120-B IPC, registered at Police Station SAS Nagar, Mohali, District Ropar, and the subsequent proceedings arising therefrom are ordered to be quashed.

November 20, 2006 **(RANJIT SINGH)**
khurmi **JUDGE**